



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

February 9, 2017

**BY ECF**

The Honorable Valerie E. Caproni  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re:    *United States v. Joseph Percoco, et al.*, 16 Cr. 776 (VEC)**

Dear Judge Caproni:

We write concerning the scheduling of pretrial motions in the above-captioned matter, in light of the motion filed on February 7, 2017, by defendants Louis Ciminelli, Kevin Schuler, and Michael Laipple (the “Buffalo Defendants”) seeking to dismiss the charges against them or, in the alternative, to transfer venue to the Western District of New York (the “Motion to Dismiss”). The Government is preparing to respond to the Motion to Dismiss, and would be able to submit a response within 30 days. However, the Government respectfully submits that it would be more efficient and fair to all parties if the Court were to set a motion and briefing schedule for all pretrial motions, including the Motion to Dismiss, at the next status conference on April 3, 2017.

At the initial pretrial conference in this matter, on December 1, 2016, the Court indicated that a schedule for pretrial motions would be set at a status conference to be held on March 1, 2017. In a letter to the Court dated January 24, 2017, the defendants jointly asserted that they did “not believe that they [would] be in a position to discuss motions” by March 1, 2017, and asked that the conference be adjourned until April 3, 2017. On this representation, the Government consented, and the Court granted the request. The Buffalo Defendants then filed the Motion to Dismiss without prior notice to the Government.

Because the Buffalo Defendants assert in their motion that they “anticipate making other pretrial motions,” (Motion to Dismiss at 13), and the Government expects that one or more of the other defendants also will file pretrial motions, some of which may seek similar relief, the Government submits that a uniform motion schedule would conserve judicial resources, avoid gamesmanship, and ensure a fair process for the consideration of all defense motions. Accordingly, the Government proposes that (i) a motion and briefing schedule be set at the April 3, 2017 conference, at which time the defendants should be able to represent to the Court the volume and substance of their anticipated motions, and the Government in turn can propose a reasonable time to respond to those motions, and (ii) the pending Motion to Dismiss be held in abeyance until that time.

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The Government intends to separately respond to the Buffalo Defendant's letter dated February 7, 2017 requesting sealing of declarations or portions thereof filed in support of their Motion to Dismiss.

Respectfully submitted,

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cc: Counsel for all defendants (via ECF)